IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2007

CORAM

THE HONOURABLE MR. JUSTICE K.N. BASHA

Crl.O.P.No.8182 of 2007
and
Crl.M.P.No.1 of 2007

1. T. Muthupandian

2. Siva @ Sivasubramaniam ... Petitioners

Vs

State : Inspector of Police,
Kannankurichi Police Station
Salem District. ... Respondent

Criminal Original Petition filed under section 482 of Cr.P.C. to call for the records from the respondent pertaining to FIR No.55 of 2007 and quash the same in respect of the petitioners.

For Petitioner : Mr.P. Vijendran

For Respondent : Mr.P. Kumaresan,
Additional Public Prosecutor

O R D E R

Learned counsel for the petitioners submit that the petitioners have come forward with this petition seeking the relief of quashing the F.I.R. which was registered for the alleged offences punishable under Section 147, 148, 323, 324 r/w 307 of I.P.C. And 3(1)(x) of Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act.

2. Learned counsel for the petitioners submit that the petitioners are the students studying in a college. It is further submitted by the learned counsel for the petitioners that the petitioners agitated against the management and also partly succeeded and being aggrieved on the agitation, the college administration foisted the case against the petitioners herein. It is also further submitted by the learned counsel

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for the petitioners that the complainant belongs to Scheduled Caste, who had preferred complaint against the petitioners who are also belong to Scheduled Caste. The learned counsel for the petitioners further contented that the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act would apply only against the Backward Class people, but in this case the case was registered against the Scheduled Caste students. The learned counsel for the petitioner in support of his contention placed reliance on the community certificate issued to the petitioners which were annexed to the typed set filed along with the petition filed for quashing. Therefore it is submitted by the learned counsel for the petitioners that the F.I.R. registered in Crime No.55 of 2007 by the respondent is liable to be quashed.

3. I have carefully considered the submissions of the learned counsel for the petitioner and also perused the materials available on record including the F.I.R. Copy.

4. A perusal of the F.I.R. makes it crystal clear that there are definite and specific allegations made against the petitioners whose names were very much mentioned in the F.I.R. itself. A perusal of the F.I.R. further disclosed that both the defacto complainant and the petitioners are the students of a Law College and the petitioners along with other accused persons alleged to have started quarrelling with the complainant in respect of ragging in the college and thereafter the first petitioner is said to have abused the defacto complainant using the name of the community and caught hold of the hands of the defacto complainant. One Sankar, one of the accused, assaulted the defacto complainant with aruval resulting in a cut injury on his left hand. Another student by name Lenin was said to have been attacked by the second petitioner resulting in a injury on his left finger. Therefore, there are specific allegations levelled agaisnt the petitioners in the F.I.R. constituting the offecnes alleged adainst the petitioners.

5. The contention of the learned counsel for the petitioners that the registering of the case against the petitioners, who were also said to have been belong to Scheduled Cast community, even under Section 3(1)(x) of S.C./S.T.(Prevention of Atrocities) Act, would applicable only against the Backward Class community people and not against the S.C./S.T. Community people is, on the face of it, unacceptable. This Court cannot place reliance on the community certificates annexed along with the petition filed for quashing in the typed set as the same cannot be construed to be an evidence.

6. The Hon'ble Supreme Court has categorically held in STATE OF ORISSA V. SAROJ KUMAR SAHOO reported in 2005 (13) SCC 540 that,

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"The Court should not act on annexures to the petitions under Section 482 Cr.P.C., which cannot be termed as evidence without being tested and proved."

In the very same decision the Hon'ble Apex Court has held as follows :

"where investigation was incomplete, it was impermissible for the High Court to look into materials, the acceptability of which is essentially a matter for trial."

7. It is also well settled that the F.I.R. is liable to be quashed only in the event of the allegations contained in the complaint in its entirety taken to be true and no offence is made out. It is for the investigating officer to consider the points relating to the submissions made by the learned counsel for the petitioner to the effect that whether the petitioners belong to the Scheduled Caste community. It is also pertinent to be noted that the allegations contained in the complaint also constitute the other offence as mentioned in the F.I.R. The another contention of the learned counsel for the petitioner that the case was foisted against the petitioners only at the instance of the college management to wreak vengeance also cannot be considered at the F.I.R. stage and it for the Investigating agency to find out whether the case is falsely foisted against the petitioners without any materials.

8. The Hon'ble Apex Court in the decision cited supra, further held as follows :

"allegations of mala fides against the informant are inconsequent and cannot by themselves be the basis for quashing the proceedings."

9. The Hon'ble Supreme Court also recently in a decision in LATA SINGH V. STATE OF U.P. reported in 2006 (5) SCC 475 observed as follows :

"The case system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly."

10. It is needless to state that no one can be abused or discriminated in the name of caste or creed and it is for the investigating agency to investigate the matter in a proper manner and in accordance with law.

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11. Therefore, for the aforesaid reasons, this Court is of the considered view that the F.I.R. is not liable to be quashed at the threshold and as such this petition for quashing filed by the petitioners is dismissed.

12. Consequently the connected Criminal Miscellaneous Petition is closed.

ggs/gg

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Inspector of Police,
   Kannankurichi Police Station
   Salem District.

2. The Public Prosecutor,
   High Court, Madras.

+1 cc to P.Vejendran, Advocate Sr.No.18497.

KEJ(CO)
DCP/9.4.07

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